

League of Nations

REGISTRATION OF TREATIES

Exchange of notes at Geneva January 22 and 23, 1934

Entered into force January 23, 1934

*Obsolete as of August 1, 1946*¹

49 Stat. 3659; Executive Agreement Series 70

*The Acting Legal Adviser of the Secretariat of the League of Nations
to the American Consul at Geneva*

LEAGUE OF NATIONS

Geneva, January 22, 1934

DEAR MR. GILBERT,

With reference to my recent conversations with you, I am authorised by the Secretary-General to confirm that provision for the registration with the Secretariat, by States not belonging to the League, of international agreements concluded by them is made in paragraph 13 of the memorandum regarding the registration and publication of treaties which was approved by the Council of the League of Nations on May 19th, 1920 (see Volume I, No. 1, of the Treaty Series, pp. 8-13). I annex the text of this paragraph in French and English.

You will observe from the terms of the paragraph that the Council recognised that such registration by a non-Member State would be absolutely voluntary.

It may be of interest for me to mention that, commencing in October 1920, Germany proceeded to register treaties with the Secretariat as contemplated in the paragraph, on the understanding that this did not imply that she considered herself as bound by the provisions of Article 18 of the Covenant (see Treaty Series, Volume II, p. 60). I might also mention that,

¹ Date of transfer of treaty registration functions from the League of Nations to the United Nations, for performance under art. 102 of the United Nations Charter (TS 993, *ante*, vol. 3, p. 1176).

since she ceased to be a member of the League, Brazil has continued to register treaties with the Secretariat.

In such cases a simple acknowledgment of the request for registration, and not a formal certificate of registration, is addressed by the Secretariat to the Government presenting a treaty for registration, in view of the fact that the registration is not legally obligatory.

Should, therefore, the United States decide to adopt the practice of registering international agreements concluded by it with the Secretariat, the position would be as follows:

a) Such registration would not involve acquiescence by the United States in the stipulation of Article 18 of the Covenant that no instrument shall be binding until registration.

b) Such registration would result in publication of treaties and executive agreements between the United States and Members of the League and likewise between the United States and other States not Members of the League in the "League of Nations Treaty Series" in the same category and with the same promptitude as treaties registered by the Member States.

c) Such registration would result in the elimination of the delay in the publication of instruments which may hitherto have been caused by the suspension of publication of treaties sent to the Secretariat by the United States until appropriate notification had been made to the interested Member States.

If the United States requested registration of a treaty, such registration would be effected at once and the treaty be published in the same manner as though it had been presented by a Member State. Since registered treaties are published in the order of registration, the exact date at which a treaty appears in the Treaty Series necessarily depends on the progress made in producing the Series.

d) Such registration would not involve an obligation on the part of the United States to pay any charges or expenses.

I should perhaps add that under the memorandum approved by the Council, the instruments which the Secretariat registers comprise "not only every formal Treaty of whatsoever character and every International Convention, but also any other International Engagement or Act by which nations or their Governments intend to establish legal obligations between themselves and another State, Nation, or Government".

I am, dear Mr. Gilbert,

Yours very sincerely,

H. MCKINNON WOOD
Acting Legal Adviser of the Secretariat

MR. PRENTISS B. GILBERT,
*United States Consulate,
Rue du Mont Blanc,
Geneva.*

ANNEX

PARAGRAPH 13 OF MEMORANDUM APPROVED BY COUNCIL
ON MAY 19TH, 1920

English text.

"13. In connection with this last point, it has been suggested that the system of Registration of Treaties by the Secretariat of the League of Nations should from the beginning be so extended as to admit of the registration of Treaties, etc., made by and between States or Communities that have not yet been admitted as Members of the League of Nations. This would serve to complete the Registration of Treaties and the public collection of Treaties which will be formed by the Treaty Part of the League of Nations Journal. The Secretary-General therefore proposes, although the Registration will be for this part absolutely voluntary, to accept applications for the Registration of Treaties, etc., even if none of the Parties is at the time a Member of the League of Nations."

*The American Consul at Geneva to the Acting Legal Adviser
of the Secretariat of the League of Nations*

AMERICAN CONSULAR SERVICE
Geneva, Switzerland, January 23, 1934

MY DEAR MR. MCKINNON WOOD:

I desire to acknowledge with appreciation your letter of January 22, 1934 in which, in line with our conversations, you set forth the position of the League of Nations with regard to the registration by the Secretariat and the publication in the "League of Nations Treaty Series" of international instruments concluded by the United States which shall be furnished by the Government of the United States for this purpose. My understanding of the League's position in this respect is as follows.

(a) Such registration will not involve acquiescence by the United States in the stipulation of Article 18 of the Covenant of the League of Nations that no instrument shall be binding until registration.

(b) Such registration will result in publication of treaties and executive agreements between the United States and members of the League and likewise those between the United States and other states not members of the League in the "League of Nations Treaty Series", in the same category and with the same promptitude as treaties registered by the member states.

(c) Such registration will result in the elimination of the delay in publication of instruments which may hitherto have been caused by the suspension of publication of treaties sent to the Secretariat by the United States until appropriate notification had been made to the interested member states.

(d) Such registration will not involve an obligation on the part of the United States to pay any charges or expenses.

With regard to points (b) and (c) above, my understanding of the arrangement envisaged is that, upon the United States requesting the registration of a treaty, such registration will be effected at once and the treaty published in the same manner as though it had been presented by a member state; it is, however, entirely clear that, inasmuch as registered treaties are published in the order of registration, the exact date at which a treaty appears in the "Treaty Series" necessarily depends on the progress made in producing the Series.

I further understand that in cases of this character a simple acknowledgment of the request for registration, and not a formal certificate of registration, is addressed by the Secretariat to the government presenting a treaty for registration, in view of the fact that the registration is not legally obligatory.

I take pleasure in informing you that my Government will be glad in accordance with the memorandum approved by the Council of the League on May 19, 1920 and in accordance with the understandings expressed in your letter which I have recapitulated above, to furnish the Secretariat through the American Minister at Bern for the purpose of registration and publication a certified copy of each international agreement to which the United States shall hereafter become a party.

I am, my dear Mr. McKinnon Wood,

Yours very sincerely,

PRENTISS GILBERT

H. McKINNON WOOD, Esquire,

Legal Section,

League of Nations,

Geneva.